

## Singh, Angela K (DOA)

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**From:** Colombie, Jody J (DOA)  
**Sent:** Monday, October 14, 2013 10:05 AM  
**To:** Singh, Angela K (DOA)  
**Subject:** FW: comments regarding the hydraulic fracturing regulatory changes  
**Attachments:** Alaska.comments.pdf

**From:** Bruce Baizel [mailto:bruce@earthworksaction.org]  
**Sent:** Monday, October 14, 2013 9:10 AM  
**To:** Colombie, Jody J (DOA)  
**Subject:** comments regarding the hydraulic fracturing regulatory changes

Hello Jody,

I would like to submit that attached comments.

Thank you.

Bruce

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Bruce Baizel  
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October 14, 2013

VIA ELECTRONIC MAIL  
To jody.colombie@alaska.gov

Alaska Oil and Gas Conservation Commission  
333 West 7<sup>th</sup> Avenue,  
Anchorage, Alaska 99501  
Attn: Jody Colombie

Re: Comments on proposed changes in the regulations/hydraulic fracturing

To the Alaska OGCC,

Earthworks' Oil & Gas Accountability Project (OGAP) would like to submit the following comments on the above referenced proposed regulatory changes.

Based upon our work in multiple states, and our participation in regulatory and legislative discussions of both baseline water testing and chemical disclosure, we offer the following on these two elements of the proposed changes:

It is increasingly recognized that one of the areas of contention across states has been the issue of whether potential water contamination is linked with oil and gas activity. The absence of baseline water conditions, in conjunction with the absence of information regarding the substances used in the oil and gas activity, has led to a significant number of policy and legal conflicts.

As a consequence, the recently updated STRONGER guidelines suggest that states should consider baseline groundwater monitoring protocols (Guideline 9.2.1). In addition, at least ten other states are considering requiring some form of baseline water testing, often with both before and after testing requirements.

In reviewing the proposed regulatory changes, we are generally supportive of the revised language that provides clear pre- and post-drilling, and associated hydraulic fracturing, baseline water testing parameters. Having clear timing and substantive reporting requirements that match, both before and after, should be helpful in allowing the identification of any changes that may be associated with the oil and gas activity.

We are also generally supportive of the requirements for fracturing chemical disclosure that are without exemption. Without this regulatory element, it becomes nearly impossible for water well owners to establish an independent baseline. Such a lack ultimately leads to additional litigation that could be prevented.

Moreover, experience elsewhere illustrates why full disclosure is so necessary. Recently, where a Range Resources well was the subject of an administrative appeal in Pennsylvania, the company was unable to identify the chemicals used, after the fact, due largely to claims of exemption by subcontractors.<sup>1</sup> In our view, it is better to err on the side of full disclosure up front, as this regulatory language largely requires, than to try to determine the chemicals used after the fact. As a consequence, we are supportive of disclosure, regardless of whether a specific chemical has a Material Safety Data Sheet or not.

While we are supportive of the current baseline testing and disclosure language, we remain skeptical of the website reporting language. In our experience across many states, we

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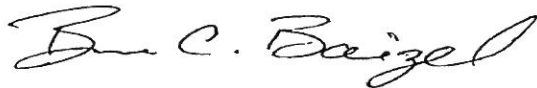
<sup>1</sup> [http://www.shalereporter.com/industry/article\\_6e5e25ae-2a78-11e3-b5ac-001a4bcf6878.html](http://www.shalereporter.com/industry/article_6e5e25ae-2a78-11e3-b5ac-001a4bcf6878.html)

have found FracFocus to not be user friendly, to lack in quality control of the data reported, to not be subject to state open records requirements and to lack any sort of compliance mechanism.

For example, in response to a recent request to provide testimony to a New Mexico legislative committee, we attempted to compare the reports filed with FracFocus to those filed with the state Oil Conservation Division. We found that the same companies filed different information for the same well; they sometimes filed only with one website; there appeared to be no effort by either FracFocus or the state agency staff to confirm the accuracy of the data filed, and there was no consequence that we could find for companies that filed inaccurate information. Finally, given FracFocus' large dependence upon federal funding for its development and refinement, we lack confidence that FracFocus will have the longevity that a state operated website would have.

Therefore, we urge the commission to establish a state-based locus for public disclosure of hydraulic fracturing chemicals, independent of any reporting to FracFocus.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bruce Baizel". The signature is written in dark ink and is positioned above the printed name.

Bruce Baizel

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